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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,651	01/19/2007	Pierre Henry Servajean	GER-0803	8181

23413 7590 04/09/2010
CANTOR COLBURN, LLP
20 Church Street
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Hartford, CT 06103

EXAMINER

PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
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1786

NOTIFICATION DATE	DELIVERY MODE
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04/09/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

Office Action Summary	Application No. 10/576,651	Applicant(s) SERVAJEAN, PIERRE HENRY	
	Examiner Andrew T. Piziali	Art Unit 1786	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 4-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/20/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species 1 from Species Group 1, Species 1 from Species Group 2, Species 1 from Species Group 3, Species 4 from Species Group 4, and Species 8 from Species Group 5 in the reply filed on 1/22/2010 is acknowledged. The traversal is on the ground that all of the claims avoid the prior art. This is not found persuasive because the below rejections demonstrate that the claims fail to avoid the prior art.
2. The applicant indicated that claims 2 and 4-7 do not read on the elected species. Therefore, said claims are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species.
3. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1, 3 and 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase ““comfort” yarn” renders the claims indefinite. It is not clear why quotation marks are around the word “comfort.” The claim appears to be referencing a previously mentioned comfort yarn but there is insufficient antecedent basis for this limitation in the claim.

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The phrase “good properties of resistance to abrasion and to temperature” renders the claims indefinite. It is not clear what is considered a “good” resistance to abrasion or a “good” resistance to temperature.

The phrase “yarn produced from continuous filaments” renders the claims indefinite because it is not clear if said yarn comprises continuous filaments or was simply produced from a material that was previously in the continuous filament form.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3 and 8-11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 2,483,861 to Weiss.

Weiss discloses a monolayer fabric comprising two yarns (warp and weft), a comfort yarn (weft) made of cellulose material and a technical yarn (warp) possessing good properties of resistance to abrasion and to temperature, these two yarns being woven so as to define at least two separate portions in the thickness of the fabric, a first outer portion (warp portion)

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predominantly of technical yarn and a second inner portion (weft portion) predominantly of comfort yarn, said portions being at least partially entangled, wherein the technical yarn is a yarn produced from continuous filaments, the core of which is covered over at least 75% of its surface by a coating at least partially comprising natural fibers (see entire document including column 3, lines 31-75, column 6, lines 29-55, and column 7, lines 15-26).

In the event that it is shown that the applied prior art does not disclose the claimed embodiment with sufficient specificity, the invention is obvious because the prior art specifically discloses the claimed constituents.

Regarding claim 3, the yarns are nontextured (column 4, lines 29-53).

Regarding claim 8, the core may comprise nylon or the like (column 3, lines 31-46 and column 7, lines 15-26).

Regarding claim 9, the coating may comprise cotton (column 3, lines 47-75 and column 7, lines 15-26).

Regarding claims 10 and 11, the coating may comprise a resin (column 7, lines 27-47).

9. Claims 1, 3, 8 and 9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 3,828,544 to Alker.

Alker discloses a monolayer fabric comprising two yarns (warp and weft), a comfort yarn (weft) made of cellulose material and a technical yarn (warp) possessing good properties of resistance to abrasion and to temperature, these two yarns being woven so as to define at least two separate portions in the thickness of the fabric, a first outer portion (warp portion) predominantly of technical yarn and a second inner portion (weft portion) predominantly of

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comfort yarn, said portions being at least partially entangled, wherein the technical yarn is a yarn produced from continuous filaments, the core of which is covered over at least 75% of its surface by a coating at least partially comprising natural fibers (see entire document including column 1, lines 25-56 and column 2, lines 11-61).

In the event that it is shown that the applied prior art does not disclose the claimed embodiment with sufficient specificity, the invention is obvious because the prior art specifically discloses the claimed constituents.

Regarding claim 3, the yarns are nontextured (column 2, lines 55-61).

Regarding claim 8, the core may comprise nylon or the like (column 2, lines 55-61).

Regarding claim 9, the coating may comprise cotton (column 2, lines 55-61).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew T Piziali/

Primary Examiner, Art Unit 1786